

**BOARD  
OF  
ACUPUNCTURE**

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**Ethics and Regulation  
Guide  
2010**

## **I. Introduction**

The Maryland Board of Acupuncture has developed this guide for the purpose of informing you about the laws, regulations, and ethical guidelines that are imperative for the maintenance of integrity in the profession.

You are invited to periodically review the contents of this guide, and to keep it readily available for occasional reference when questions arise about professional conduct. It is not, however, to be viewed as a substitute for private counsel.

While the regulations and guidelines for practice are readily available online, this guide attempts to consolidate all the relevant information available to the Board in one place, thus making it easier for you to have a handy reference in the event guidance might be required for one's conduct in professional practice. While the majority of circumstances that occur in a practice are unambiguous with regard to their ethical or regulatory import, some are not. Thus a greater familiarity with, not only the regulations, but their intended impact, will be helpful in maintaining professional integrity.

The guide provides you with information about the Board, administrative procedures, practice recommendations, the disciplinary process, professional boundaries and the code of ethics. In short, we intend for this guide to become a resource for Maryland acupuncture ethics and regulations. The statute and regulations may be amended from time to time, so be sure to periodically check on the status of the law and regulations.

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## **Board of Acupuncture Information**

The State Board of Acupuncture (the "Board") operates under the provisions of Title 1A of the Health Occupations Article of the Annotated Code of Maryland. The Board is the licensing authority of acupuncturists in the State of Maryland. The Board is mandated to protect the public by regulating the practice of acupuncture in Maryland, by licensing qualified acupuncturists, establishing fees, maintaining a current roster of all licensees, enforcing current statutes and regulations, adopting new regulations to carry out provisions of the title, suggesting new changes to the title to keep abreast of trends and practice issues, adopting standards of practice for acupuncturists, verification of credentials, issuance of licenses, establish requirements for and verification of completion of continuing education, investigation of complaints based on alleged violations of regulations and statutes, formal and informal disciplining of licensees, create committees as deemed appropriate to advise the Board. The program is 100% special funded. The fund is supported exclusively by revenues generated by licensing fees.

### **MISSION**

The Mission of the Board of Acupuncture is to protect the citizens of Maryland and to promote quality health care in the field of acupuncture by:

- 1) Licensing acupuncturists;
- 2) Receiving and resolving complaints from various sources, including but not limited to, the public, courts, employers, insurance companies, other licensees regarding acupuncturists who may have violated Maryland Acupuncture Practice Act (Annotated Code of Maryland, Health Occupations Article, Title 1A) and its regulations found at COMAR 10.26.01; and
- 3) Setting standards for the practice of acupuncture that reflect new and emergent developments in the practice of acupuncture through regulations and legislation.

### **BOARD MEETING SCHEDULE**

The Board of Acupuncture traditionally meets on the second Tuesday of every other month, starting at 1:00 p.m. Scheduled months are September, November, January, March, May, and July. All meetings are held at 4201 Patterson Avenue in Baltimore, at 1 PM on the first floor.

### **BOARD MEMBERS**

The Board consists of seven members appointed by the Governor. Of the seven members, five are licensed acupuncturists and two are consumer members. Each acupuncturist member must be a resident of the State and for at least 5 years immediately before appointment have been engaged in the practice of acupuncture in the State. The term of a member is 4 years.

### **BOARD STAFF**

The Board employs a part time Executive Director, a full time Administrative Assistant, Board Counsel, and Investigator.

## ADMINISTRATIVE PROCEDURES

### **RENEWAL OF LICENSE:**

Licenses are renewed every two years. Renewal expiration dates are May 31<sup>st</sup> and November 30<sup>th</sup>. Renewal applications are available online or by calling the Board's office.

The link for the online renewal can be found on the Board's web site [www.dhmh.state.md.us/bacc/](http://www.dhmh.state.md.us/bacc/). If you wish to submit a **paper application**, you can print the renewal application form and instructions off the Board's web site or call the Board and request a renewal application (410) 764-4766 or toll free 1-800-530-2481.

### **LATE RENEWAL:**

A late renewal means that you have sent in your renewal application within a 30-day grace period after the expiration date of your license. If you file a late renewal, you will be required to pay a **\$100 late fee**. Please remember that a late renewal only applies if you submit your application and fee within 30 days after the expiration date.

PLEASE NOTE THAT IF YOU FAIL TO RENEW YOUR LICENSE ON TIME YOU MAY BE CONSIDERED PRACTICING WITHOUT A LICENSE AND MAY BE CHARGED IN VIOLATION OF THE MARYLAND ACUPUNCTURE PRACTICE ACT.

### **REINSTATEMENT:**

If you submit your renewal application more than 30 days **after** the expiration date, you will be required to **reinstate** your license. This means that you failed to renew within the 30-day grace period and will have to pay the renewal fee and a reinstatement fee of \$325. You will also have to provide proof of 40 hours of CEU's.

### **INACTIVE:**

Recommended for licensees who will not be practicing acupuncture in Maryland for more than 2 years. If you know that you will be out of state for a period or want to go on maternity leave, you may think about placing your license on **inactive** status. This process avoids the high cost and CEU penalties of reinstatement. To become inactive you simply complete an inactive application, pay a \$100 fee and request that you be placed on an inactive list. Upon your return to your Maryland practice, you can easily fill out a renewal form, pay the renewal fee and provide documentation of CEU's for a 2-year period. Inactive status is limited to a 6 year time period.

### **INTERIM LICENSE NUMBERS:**

Because the Board of Acupuncture meets every other month, the Board will issue interim license numbers between Board meetings so that a licensee may practice

without delay. In order for an applicant to receive an interim license number, all pertinent application documentation, must be received by the Board at least 14 days prior to the next meeting of the Board. Interim numbers are issued by letter to the address indicated on the application. Interim numbers are not provided over the phone.

### **NAME CHANGE REQUESTS:**

At times it is necessary for licensees to change their names on their licenses due to divorce, marriage or other reasons. When requesting a name change, the Board requires that you submit a certified copy of a marriage license, divorce decree, or court order indicating the name change, date and place of change. There is no charge for a name change request

### **CONTINUING EDUCATION INFORMATION:**

The Board's regulations require that you earn 40 hours of continuing education within the 2-year period of your renewal cycle. The Board requires that you earn a minimum of 25 hours in formally organized programs that are relevant to the practice of acupuncture. These programs are usually offered by organizations such as AAAOM, CCAOM, and NCCAOM and accredited schools. The Board also requires that at least 3 hours of training in ethics or professional boundaries be earned every 4 years.

THE BOARD DOES NOT REQUIRE THAT YOU SUBMIT PAPER DOCUMENTATION OF CEU HOURS UNLESS YOU ARE SELECTED FOR AUDIT. You must simply list the courses you have completed online or on the paper application. If you are selected for audit, the Board will request that you provide copies of the following documentation of your hours with your renewal form. Documentation that does not contain the following information will be returned. If replacement documentation is not received, renewal of your license will not be granted.

Continuing education documentation must contain the following information in order to be acceptable to the Board.

- Must be on sponsor letterhead
- Must have the complete name of course
- Must have number of credit hours received
- Must have date(s) credit hours were received
- Must have signature of instructor

Licensees who have not met the continuing education requirement **due to extreme hardship** may request an extension of time to meet the requirement. A request for a time extension must be in writing to the Board, and must outline a plan for completing

the requirement, and must be received by the Board prior to the deadline for expiration. The Board has sole discretion in granting/denying extension requests.

A licensee will not be renewed unless the continuing education requirement has been met. Licensees who fail to meet this requirement must apply for reinstatement.

The CEU breakdown is as follows:

- At least 25 hours in formally organized programs which are relevant to the practice of acupuncture.
- Not more than 15 hours of training in accredited programs which will assist a licensee to carry out the licensee's professional responsibilities such as management courses, computer training, CPR, western medicine, massage, foreign language training for translators of relevant texts, or educational methodology for teachers of acupuncture
- Not more than 15 hours teaching acupuncture and related oriental medical therapies in an accredited school or in a program approved for acupuncture continuing education.
- At least 3 hours in ethics/professional boundary training every 4 years. This means that those of you renewing in November 2010 will be required to earn 3 hours of continuing education by November 2014. Those renewing in May 2011 will be required to earn 3 hours in ethics by May 2015.
- Not more than 10 credit hours in pro bono activity. 1 credit hour for each 3 hours of pro bono activity is allowed per renewal cycle.

## **PRACTICE RECOMMENDATIONS**

### **AVOIDING PATIENT ABANDONMENT**

The Board frequently receives telephone calls requesting guidance on the appropriate manner in which to dismiss a patient from their practice. Sometimes patients can be extremely rude, chronically miss appointments, avoid payment, or cause disruptive behavior that may negatively impact your staff or other patients.

Once you have agreed to treat a patient, you are consequently obligated to treat or assist in arranging treatment for your patient. A single visit or long period of time between patient contact does not minimize your responsibilities to that patient.

Either you or the patient may initiate termination of a professional relationship. If the patient refuses care and fails to return for completion of their treatment, this should be documented. If you are the one that is initiating separation, you must provide adequate time to the patient to allow them to obtain a new practitioner. A letter with names of several acupuncturists as alternatives should be provided to the patient with an authorization for release of medical records. When the patient selects a new practitioner, you can send copies of the patient's medical records to the new practitioner. Charging a fee for the cost of copying is appropriate. You should always be available to the patient for any needs that arise during the transition period.

As you know, not every practitioner is "right" for every patient and vice-versa. Strive to end your relationship with your patient on as positive a note as possible. Each practitioner-patient relationship is unique and should be dealt with individually. The Board's regulations dealing with ethics, Section 10.26.03, can be found at page 16 of this guide.

### **ACUPUNCTURE ASSISTANTS**

The Board was asked whether it was appropriate to allow students to act as assistants, giving them authority to take out needles and apply moxibustion. It is not appropriate to delegate these procedures to anyone other than a licensed acupuncturist.

### **ACUPUNCTURE TREATMENTS AT HEALTH FAIRS AND OTHER PUBLIC FORUMS**

With the first treatment, a person becomes a patient, therefore requiring that the following procedures be followed:

1. Informed consent form
2. History and evaluation

3. Follow up care
4. Treatment rendered in a private place
5. Record of individual is maintained for 5 years
6. Health Insurance Portability and Accountability Act (HIPPA)
7. Maintain clean needle techniques and universal precautions
8. Contact information is provided in case of adverse reaction

### **AURICULAR DETOXIFICATION TRAINER**

An auricular detoxification specialist can teach the didactic portion of the curriculum, but a Maryland licensed acupuncturist must conduct the supervision and teaching of needling.

### **ADVERTISING PROTOCOL**

When advertising in a local newspaper, telephone directory, on radio or television, please remember that you must list your name and the **current** address and telephone number of your office(s).

Also, you may not express statements that:

1. Contain misrepresentation of facts;
2. Are likely to mislead or deceive the public because you only make partial disclosure of relevant facts;
3. Intend to create false or unjustified expectations of favorable results;
4. Do not fully disclose all relevant variables relating to fees;
5. Convey the impression that you could influence a public body, official, corporation or person for your patient;
6. Represent that you are willing to perform any procedure that is illegal under the laws or regulations of Maryland or the United States; or
7. Contain representations that an ordinarily prudent person would misunderstand or be deceived.

### **ANIMALS AND HUMANS IN THE SAME TREATMENT ROOM**

Officials at the Maryland Department of Health and Mental Hygiene Epidemiology and Disease Control Program, strongly recommend that acupuncturists use separate treatment rooms for animals and human patients. If you have no other option and must

treat animals and humans in the same room, officials caution that proper hand-washing and disinfecting techniques be applied to avoid environmental exposure and risks.

### **CEU COMPLIANCE**

Extensions may be granted to those proving extreme hardship or illness. Licensees who have not complied will not be granted renewal and the applicant will have to later reinstate.

### **CEU PROVIDERS**

Effective January 18, 2005, the Board of Acupuncture discontinued review and approval of individual providers of CEU programs. The Board is directing all interested CEU providers to contact the Maryland Acupuncture Society, MOMA, and AAAOM. AOMAlliance, NCCAOM, and other recognized national organizations or schools to seek approval or sponsorship for their programs.

### **CONSULTATIONS FOR HERBS**

Consultations for herbs are within the scope of practice of acupuncture.

### **MAINTENANCE OF PATIENT RECORDS IN ENGLISH**

Effective January 1, 2006, you must maintain all patient records in English. If requested, you must provide an English language translation of the records compiled prior to January 1, 2006. The translation must be by a Board approved translator, at your expense.

### **FOREIGN APPLICATIONS**

Effective February 16, 2004, a regulation was adopted requiring that all foreign applications/transcripts be reviewed by an outside agency – American Association of Collegiate Registrars & Admissions Officers (AACRAO).

### **HOMEOPUNCTURE**

The procedure involves dipping a needle into homeopathic remedies before inserting it into a patient. This procedure is not within the scope of practice of acupuncture.

### **LAB WORK**

You may not order blood tests or make medical diagnoses. You may, however, refer a patient to another health care provider to make the diagnosis and then you may use that diagnosis to prepare treatment plans.

### **MANDATORY REPORTING REQUIREMENTS**

One role of the Maryland Acupuncture Board is to assure quality health care provided by acupuncturists and to ensure that acupuncture licensees are competent to practice. To assist the Board in this role, the following regulation was promulgated:

**10.26.03 Standards of Practice.**

*C. A licensee shall:*

*(8) Report to the Board or other appropriate authority conduct in the practice of acupuncture that indicates a violation of:*

*(a) This chapter;*

*(b) Health Occupations Article, Title 1A, Annotated Code of Maryland; or*

*(c) Other federal or State laws.*

**MEDICAL RECORD RETENTION**

If a patient requests a copy of their medical record, you may charge for the copying of a medical record. A health care provider may require a person in interest or any other authorized person who requests a copy of a medical record to pay the cost of copying and postage for mailing.

If a patient has died or has ceased coming to your practice you must retain the medical record for 5 years from the date the record was created. For a record created about a minor patient, the record must be maintained until the patient reaches the age of majority plus three years (i.e.,  $18 + 3 = 21$  years of age) or 5 years after the record was created, whichever is later.

You may not refuse to disclose a medical record because of the patient's failure to pay a medical bill from you. In addition, if you do not disclose the medical record for this reason, you could be found guilty of a misdemeanor and on conviction could be subject to a fine not exceeding \$1,000 for the first offense and not exceeding \$5,000 for each subsequent conviction for this violation (Maryland Code Annotated, Health General Article, Section 4-309(d)).

Copies of medical records are required to be provided within 21 business days of the request. (See Maryland Code Annotated, Health General Article Section, 4-309(a)).

When the treating acupuncturist leaves an office/facility where she/he has treated patients and where the records are maintained, the original records should remain with the office/facility. A patient certainly may authorize release of copies of the records to the treating acupuncturist, in which case a copy would be sent and the originals remain with the office.

## **NEUROFEEDBACK**

The Board received a letter from an individual requesting permission to perform EEG Neurofeedback under the supervision of a licensed acupuncturist. The Board concluded that EEG Neurofeedback does not lie within the scope of acupuncture practice.

## **USE OF OMD**

You may use the title OMD behind your name if you earned a legitimate OMD degree. However, it would be inappropriate for you to portray yourself as a physician or medical doctor.

## **PHYSICIAN'S ASSISTANTS**

A physician assistant can not practice acupuncture without an acupuncture license.

## **PREPAYMENT PLANS**

In order to avoid possible conflicts with the Maryland Acupuncture Practice Act the Board recommends that if you choose to offer prepayment plans, you ought to explain all terms and conditions to the patient. Patients wishing to cancel treatment and request reimbursement of unused payments ought to be reimbursed expeditiously.

## **REMOVAL OF NEEDLES**

Although some believe that the removal of needles by assistants in China and other countries or states may be common practice, the Board considers the insertion **and the removal** of needles as part of the practice of acupuncture, for which a Maryland acupuncture license is required. Delegation of the removal of needles may result in your being charged for aiding and abetting the unlicensed practice of acupuncture.

## **RESEARCH STANDARDS AND INFORMED CONSENT**

Informed consent ought to be provided patients before you begin clinical research trials. The purpose of informed consent is to allow patients to learn enough about the study to decide whether or not to participate. Informed consent for a research study ought to include the following information:

- Why the research is being done
- What the research hopes to accomplish
- A description of what will be done during the study and how long the patient is expected to participate

- The risks/adverse reactions the patient may encounter from participation in the study
- The benefits that the patient may expect from participation in the study
- Other treatments that are available if the patient decides not to participate in the study
- Verification that the patient has the right to leave the study at any time, and that standard treatment will be provided without penalty
- The possibility that the patient may be photographed, if appropriate;
- The possibility that data from the research study may be shared and provide a list possible recipients

### **SHAMANIC RITUALS**

Integrating shamanism or shamanistic practices or rituals falls outside the scope of practice of acupuncture.

### **STUDENTS PERFORMING ANIMAL ACUPUNCTURE**

Students in Maryland Acupuncture schools may not practice acupuncture on animals.

### **STUDENTS NEEDLING IN CONTINUING EDUCATION WORKSHOPS**

Students may not participate in needling activities that are conducted in continuing education workshops held in non-institutional settings.

### **TAI CHI AND CHI GONG**

Tai Chi and Chi Gong are within the scope of practice of Acupuncture.

### **ZERO BALANCING**

Zero balancing would appropriately fall within the scope of practice of acupuncture when performed in accordance with the principles of oriental acupuncture medical theories.

## **STATUTORY AND REGULATORY PROCESSES**

### **THE LEGISLATIVE PROCESS**

The Maryland General Assembly enacts all Maryland statutory law. The statute that governs the practice of Acupuncture can be found under Title 1A of the Health Occupations Article of the Annotated Code of Maryland. If the Board wishes to consider new legislation or an amendment to its statute, the Board must draft a proposal and submit it to the Department of Health and Mental Hygiene (DHMH) for review and approval. If DHMH decides not to sponsor the proposal or bill, the Board must seek a legislator who has a particular interest in the bill and would be willing to sponsor and introduce the material.

Individuals and groups, including professional associations, can also ask members of the General Assembly to sponsor a bill. A bill goes through committee hearings, lobbying, debates, and usually redrafting. Board members and interested parties may testify before legislative committees in favor or against a bill while it is being reviewed by both houses of the General Assembly (Senate and House of Delegates). If the Bill is passed by each House with changes, it is submitted to a conference committee for further debate and drafting. If the bill is passed by both houses with no changes, it is presented to the Governor for signature or veto. After is signed by the Governor, it becomes a Chapter of the laws of Maryland and the effective date is included in the law.

### **THE REGULATORY PROCESS**

Although the General Assembly enacts all statutory law, there are many details necessary to carry out the statutory mandates. Sometimes the details are not appropriate for inclusion in the statute so regulations are written to fill in the details.

The Board must follow procedures designed to ensure the legality and fairness of regulations and must obtain public comment before a regulation is adopted. Regulations can be adopted as temporary or an emergency while public comment on them is being sought.

Board members and the Board's Executive Director draft proposed regulations. A majority of the Board must then vote on the proposal during a public meeting. The Board sends the proposal to Board Counsel for review legal sufficiency and to the DHMH Regulations Coordinator for proper format.

The proposal is sent to the General Assembly's Joint Committee on Administrative, Executive and Legislative Review (AELR) and is then published in the Maryland Register for public comment.

The Maryland Register published biweekly, contains official material issued by various state agencies. Publication in the Maryland Register officially notifies members of the public that a regulation has been proposed. A regulation may not be finally adopted until at least 45 days after the date on which it appears in the Maryland Register. If the Board receives a lot of opposing comment, the AELR may reject the regulation. The Board may withdraw the regulation or can modify it according to public comment and begin the promulgation process again, or submit the proposal to the Governor with a statement of its refusal to withdraw or modify the regulation.

If the AELR does not reject the regulation or if the Governor approves its adoption, the regulation is finally adopted by a majority of the Board voting during a public meeting and becomes permanent.

## **DISCIPLINARY MATTERS**

The procedures governing disciplinary matters can be found at COMAR 10.26.04, Hearing Regulations. You ought to pay particular attention to 10.26.04.05 which covers the investigation and prosecution of complaints.

Please note that your failure to cooperate with a Board investigation may lead to disciplinary action taken against you. Generally, the grounds for disciplinary action are set out in section 1A-309 of the Maryland Acupuncture Act.

## **CODE OF ETHICS COMAR 10.26.03**

### **.01 Scope.**

This chapter does not apply to an individual who practices acupuncture on an animal under an animal research protocol which has been approved by an Animal Use and Care Committee as provided in 9 CFR 2.30-----2.38.

### **.02 Definitions.**

A. In this chapter, the following term has the meaning indicated.

B. Term Defined. "Board" means the State Board of Acupuncture.

### **.03 Standards of Practice.**

A. The licensee shall be concerned primarily with the welfare of the patient or client.

B. A licensee who suffers from a physical, mental, or emotional impairment, including chemical abuse, which impacts the licensee's ability to practice acupuncture shall seek professional treatment and refrain from the practice of acupuncture until such time as the impairment no longer exists or reasonable accommodations can be made.

C. A licensee shall:

(1) Use professional discretion and integrity in relationships with a member of the health care community;

(2) Be professional in conduct, with honesty, integrity, self-respect, and fairness;

(3) Remain free from a conflict of interest while fulfilling the objectives and maintaining the integrity of the acupuncture profession;

(4) Provide accurate fee information to the patient, the individual responsible for payment for treatment, and the insurer;

(5) At all times respect the patient's dignity, autonomy, and privacy;

(6) Practice acupuncture only as defined in the scope of practice set forth in Health Occupations Article, §1A-205, Annotated Code of Maryland;

(7) Cooperate with a lawful investigation conducted by the Board, including:

(a) Furnishing information requested,

- (b) Complying with a subpoena,
  - (c) Responding to a complaint at the request of the Board, and
  - (d) Providing meaningful and timely access to relevant patient records; and
- (8) Report to the Board or other appropriate authority conduct in the practice of acupuncture that indicates a violation of:

- (a) This chapter;
- (b) Health Occupations Article, Title 1A, Annotated Code of Maryland; or
- (c) Other federal or State laws.

D. A licensee may not:

- (1) Misrepresent the licensee's credentials, qualifications, or affiliations and shall attempt to correct others who misrepresent the licensee's credentials, qualifications, or affiliations;
- (2) Knowingly engage in or condone behavior which is fraudulent, dishonest, or deceitful, or involves moral turpitude;
- (3) Engage in a commercial activity which conflicts with the licensee's duties as a licensed acupuncturist;
- (4) Perform acupuncture on a patient if the contraindication against acupuncture treatment exists; or
- (5) Discriminate against a patient or a health care provider based on race, religion, age, gender, sexual orientation, national origin, or disability.

#### **.04 Relationship with Patient.**

A. A licensee shall:

- (1) Use professional judgment in the use of evaluation and treatment procedures;
- (2) Decline to administer treatment if the licensee believes that the treatment is contraindicated or unjustified;
- (3) Terminate a professional relationship with patient in an appropriate manner, such as:
  - (a) Providing the patient with sufficient notice to permit the patient to obtain the services of another professional,

- (b) Assisting the patient by providing referrals if appropriate, or
- (c) Continuing to provide emergency treatment to the patient if treatment is required before a reasonable time has passed to allow the patient to obtain the services of another health care provider;
- (4) Maintain a written record of treatment of the patient under the licensee's care for at least 5 years after the termination of treatment;
- (5) Make the records available to the patient on request, in compliance with applicable laws for disclosure of medical records;
- (6) Make arrangements for another professional to provide for the needs of the patient during an anticipated absence when the licensee is unavailable to a patient;
- (7) Make a referral only to other qualified and duly licensed health care providers;
- (8) Accurately inform a patient, a health care professional, and the public of the limitations of the practice of acupuncture and make a referral to an appropriate health care practitioner as needed;
- (9) Adequately assess the patient to determine whether a contraindication against acupuncture treatment exists before beginning treatment;
- (10) Exercise independent professional judgment in the treatment and evaluation of a patient, regardless of whether the patient was referred by another health care provider; and
- (11) Provide full notice to the patient that the patient would not reasonably be expected to benefit from the treatment.

B. A licensee may not:

- (1) Accept a client for treatment, or continue unnecessary treatment, when the patient cannot be reasonably expected to benefit from the treatment;
- (2) Receive remuneration from, or split a fee for, either making or accepting a referral of the patient to another health care practitioner;
- (3) Make a guarantee or promise about the efficacy of a particular treatment, the licensee's practice, or the result of a treatment unless supported by scientific principles accepted by the profession; or
- (4) Exploit the professional relationship by:
  - (a) Continuing treatment unnecessarily;

(b) Charging for a service:

(i) Not provided, or

(ii) Different from those actually provided.

**.05 Professional Boundaries.**

A. The licensee shall:

(1) Maintain professional boundaries, even when the patient initiates crossing the boundaries of the professional relationship;

(2) Respect and maintain professional boundaries and respect the patient's reasonable expectation of professional conduct; and

(3) If the licensee and the patient mutually desire a personal relationship, immediately terminate the professional relationship, make an appropriate referral to another health care practitioner, and wait before engaging in such a relationship for a time when it is reasonably certain that the professional relationship has no influence on the personal relationship.

B. The licensee may not:

(1) Exploit a relationship with a patient for the licensee's personal advantage, including, but not limited to, a personal, sexual, romantic, or financial relationship;

(2) Engage in a sexually intimate act with a patient; or

(3) Engage in sexual misconduct which includes behavior in which a licensee has engaged in sexual behavior with a patient in the context of a professional evaluation, treatment, procedure, or other service to the patient, regardless of the setting in which the professional service is provided.

**.06 Records, Confidentiality, and Informed Consent.**

A licensee shall:

A. Respect and maintain the privacy and confidentiality of the patient;

B. Disclose the patient's record or information about the patient only with the patient's consent or as required by law;

C. Adequately safeguard confidential patient information, including storage and disposal of records;

D. Provide sufficient information to a patient to allow the patient to make an informed decision regarding treatment, including:

- (1) The purpose and nature of an evaluation or treatment regimen,
- (2) Alternatives to treatment,
- (3) Side effects and benefits of a treatment regimen proposed and alternatives to that treatment,
- (4) The estimated cost of treatment and alternatives to treatment,
- (5) The right of the patient to withdraw from treatment at any time, including the risks associated with withdrawing from treatment, and
- (6) The patient's right to decline to participate in treatment if an aspect of the treatment will be recorded, documented, photographed, observed, or otherwise used in an educational program;

E. Obtain the full informed consent of a patient participating in a human research program, without a direct or implied penalty for the patient's refusal to participate in the program, and with due regard for the patient's autonomy and dignity; and

F. Comply with applicable federal and State laws for human research programs.

### **.07 Education and Training.**

A. The licensee shall:

- (1) Recognize the licensee's limitations and qualifications and practice acupuncture within the limits of these limitations and qualifications;
- (2) Obtain additional training, information, and supervision as needed to perform a new technique or service in a new specialty area or when employing a new treatment modality; and
- (3) Be current in the licensee's qualifications to practice acupuncture, including meeting continuing education requirements established by the Board.

B. The licensee may not perform a treatment or provide a service which the licensee is not qualified to perform or which is beyond the scope of the licensee's education, training, capabilities, experience, and scope of practice.

### **.08 Advertising.**

A. A licensee may advertise services subject to the provisions of this regulation.

B. A licensee may not use statements in an advertisement that:

- (1) Contain a misrepresentation of facts;
- (2) Are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;
- (3) Intend to or are likely to create a false or unjustified expectation of a favorable result;
- (4) Relate to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully disclosing all relevant variables so that the statement would not be misunderstood or be deceptive to a layman;
- (5) Convey the impression that the licensee could improperly influence a public body, official, corporation, or a person on behalf of a patient;
- (6) Contain a representation that the licensee is willing to perform a procedure which is illegal; or
- (7) Contain a representation or implication that, in reasonable probability, can be expected to cause an ordinarily prudent person to misunderstand or be deceived.

C. A licensee is accountable under this regulation if the licensee uses an agent, partnership, professional association, or health maintenance organization to implement an action prohibited by this regulation.

### **.09 Ethical, Legal, and Professional Responsibilities.**

The licensee may not construe the failure to specify a particular ethical, legal, or professional duty in this chapter as a denial of the existence of other ethical, legal, or professional duties or responsibilities that are equally as important and generally recognized in the profession.